

AMENDED IN SENATE JUNE 21, 2005

AMENDED IN ASSEMBLY JUNE 2, 2005

AMENDED IN ASSEMBLY MAY 3, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 771

Introduced by Assembly Member Saldana
(Coauthors: Assembly Members Coto, Jones, Laird, and Nava)

February 18, 2005

~~An act to amend Section 30327 of the Public Resources Code, relating to coastal~~ *An act to amend Section 30324 of, and to add Section 30324.5 to, the Public Resources Code, relating to coastal resources.*

LEGISLATIVE COUNSEL'S DIGEST

AB 771, as amended, Saldana. Coastal resources: California Coastal Commission: ex parte communications.

The California Coastal Act of 1976 prohibits a member of the California Coastal Commission and an interested person from conducting an ex parte communication, unless the member fully discloses and makes public the ex parte communication by providing a full report of the communication to the executive director within 7 days after the communication or, if the communication occurs within 7 days of the next commission hearing, to the commission on the record of the proceeding at that hearing.

This bill would instead require that a complete, comprehensive electronic report of the communication be made to the executive director within 3 days after the communication or, if the

communication occurs at or within 3 days of the next commission hearing, to the commission on the record of the proceeding at the beginning of that hearing.

This bill would require a member to provide a full electronic report on an ex parte communication disclosed orally on the record at a commission hearing, as specified, and would allow public comment on a disclosure made at a commission hearing. The bill would require the commission to develop a standard disclosure form for reporting ex parte communications.

This bill would require the commission, by October 1, 2006, to develop and adopt a guidance policy for commissioners with regard to the complete description of the content of an ex parte communication that must be disclosed. The bill would require the commission to place on its Internet Web site all disclosure forms completed with regard to ex parte communications and to provide appropriate links to the disclosure forms, as specified. The bill would require the agenda of a commission hearing to reflect any disclosure made with respect to an agenda item and to include a copy of the completed disclosure forms with the applicable staff report for distribution to the public attending the public meeting. The bill would require the commission to distribute, as an addendum, disclosure forms completed after the initial distribution of the hard copy of the staff report to the public.

This bill would require the commission to ensure that staff reports prepared for public hearings linked to the applicable agenda items be posted on the commission's Internet Web site in advance of the hearings no later than January 1, 2007.

~~The California Coastal Act of 1976 prohibits a member or alternate of the California Coastal Commission from making, participating in making, or in any other way attempting to use his or her official position to influence a commission decision about which the member or alternate has knowingly had an ex parte communication that has not been reported, and imposes a civil penalty not to exceed \$7,500 on a commission member who knowingly violates that prohibition.~~

~~This bill would instead impose a civil penalty not to exceed \$25,000.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 30324 of the Public Resources Code is*
2 *amended to read:*

3 30324. (a) (1) No commission member, nor any interested
4 person, shall conduct an ex parte communication unless the
5 commission member fully discloses and makes public the ex
6 parte communication by providing a—~~full~~ *complete,*
7 *comprehensive electronic* report of the communication to the
8 executive director within—~~seven~~ *three* days after the
9 communication or, if the communication occurs *at or* within
10 ~~seven~~ *three* days of the next commission hearing, to the
11 commission on the record of the proceeding ~~at that~~ *the beginning*
12 *of the public hearing.*

13 (2) *A member shall provide to the executive director a full*
14 *electronic report of an ex parte communication disclosed orally*
15 *on the record at a commission hearing, within three days of the*
16 *hearing. The report shall be posted on the commission's Web site*
17 *as described in subdivision (c) within two weeks of the close of*
18 *the hearing.*

19 (3) *Immediately following oral disclosures of the ex parte*
20 *communications as described in paragraph (2), the presiding*
21 *officer shall allow for public comment on the disclosures for the*
22 *purpose of allowing a full and fair discussion of the contents of*
23 *the disclosures.*

24 (b) (1) The commission shall adopt standard disclosure forms
25 for reporting ~~an ex parte communications~~ *communication* which
26 shall include, but not be limited to, all of the following
27 information:

28 (A) The date, time, and location of the communication.

29 (B) The identity of the person—~~or persons~~ *initiating the*
30 *communication, the person on whose behalf the communication*
31 *is being made, and the person—~~or persons~~ receiving the*
32 *communication.*

33 (C) A complete, *comprehensive* description of the content of
34 the *ex parte* communication, including, *but not limited to,* the
35 complete text of any written material that was a part of the
36 communication.

37 (2) The executive director shall place in the public record—~~any~~
38 *a report of an ex parte communication.*

1 (c) (1) By October 1, 2006, the commission shall develop and
2 adopt a guidance policy for commissioners that describes the
3 meaning of “complete, comprehensive description of the content
4 of the ex parte communication,” as used in subparagraph (C) of
5 paragraph (1) of subdivision (b). The guidance policy shall call
6 for, as appropriate, the inclusion of any other information on the
7 disclosure form developed pursuant to subdivision (b) that is
8 needed to fully inform the commissioners and the public with
9 regard to the content and context of the ex parte communication.

10 (2) The guidance policy prepared pursuant to this
11 subparagraph shall be exempt from review by the Office of
12 Administrative Law and from any other requirements of Chapter
13 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
14 Title 2 of the Government Code.

15 (d) (1) The commission shall place on its Internet Web site a
16 link to all disclosure forms completed pursuant to this section,
17 including the complete text of written material that was part of
18 the ex parte communication. The Internet Web site shall provide
19 links to the disclosure forms by both of the following:

20 (A) Name of the commissioner receiving the ex parte
21 communication.

22 (B) The staff report for the agenda item about which the ex
23 parte communication was made.

24 (2) If there is a disclosure of an ex parte communication
25 relating to an agenda item, and the agenda for the hearing at
26 which the item is scheduled for public hearing has not been
27 distributed, the commission shall include in the electronic staff
28 report specific links to the received disclosure forms that relate
29 to that agenda item. The commission shall list on the electronic
30 agenda and the hard copies of the agenda the names of the
31 parties listed in the disclosure forms.

32 (e) The commission shall append copies of all disclosure
33 forms received before a hearing to the applicable staff report for
34 each agenda item for which there has been a disclosure, for
35 distribution to the public attending the commission hearing. The
36 commission shall distribute, as an addendum throughout the
37 meeting, all disclosure forms completed after the initial
38 distribution of the hard copy of the staff report.

39 (e)

1 (f) Communications shall cease to be ex parte communications
2 when fully disclosed and placed in the commission's official
3 record.

4 SEC. 2. Section 30324.5 is added to the Public Resources
5 Code, to read:

6 30324.5. No later than January 1, 2007, the commission shall
7 ensure that all staff reports prepared for a public hearing, with
8 links to specific agenda items for which staff reports were
9 prepared, shall be posted on the commission's Internet Web site
10 in advance of the hearing.

11 SECTION 1. ~~Section 30327 of the Public Resources Code is~~
12 ~~amended to read:~~

13 ~~30327. (a) No commission member or alternate shall make,~~
14 ~~participate in making, or in any other way attempt to use his or~~
15 ~~her official position to influence a commission decision about~~
16 ~~which the member or alternate has knowingly had an ex parte~~
17 ~~communication that has not been reported pursuant to Section~~
18 ~~30324.~~

19 ~~(b) In addition to any other applicable penalty, including a~~
20 ~~civil fine imposed pursuant to Section 30824, a commission~~
21 ~~member who knowingly violates this section shall be subject to a~~
22 ~~civil fine, not to exceed twenty-five thousand dollars (\$25,000).~~
23 ~~Notwithstanding any law to the contrary, the court may award~~
24 ~~attorneys' fees and costs to the prevailing party.~~